

**CONSERVATION COMMISSION
MEETING MINUTES
January 25, 2007
Beginning at 7:30 p.m.*
Room 209, City Hall**

MEMBERS PRESENT: I. Wallach, Chairman; D. Dickson, R. Freed, A. Green, S. Lunin, R. Matthews; Associates: D. Green, J. Hepburn

MEMBERS ABSENT: N. Richardson

MEMBERS OF THE PUBLIC: See attached sign-in sheet.

1. City Hall Ponds & Crystal Lake: Update from Commissioner Rooney. (7:30 p.m.*)

Report: Late last year you requested a status report on the retaining wall at the Hannon house. Last month you requested an update on the plans for sediment removal in City Hall Ponds if the work is not scheduled for this winter – it is not so scheduled. Commissioner Rooney or his designee will update you on both of these items.

Meeting: On the Crystal Lake issue, Commissioner of Parks & Rec Fran Towle sent a letter indicating that ongoing real estate negotiations preclude public discussion of anything to do with Crystal Lake. The matter was not discussed.

Commissioner Rooney appeared on the City Hall Ponds issue and discussed his work schedule. Revenues from the Stormwater Utility are coming in now and will be used to finance the sediment removal in late fall/winter of 2007. He is not able to schedule the work earlier as his personnel have been working on Hammond Pond and will be continuing there until early May and then they will be put on the stormwater project at Crystal Lake prior to the opening of the swim season. He also factored the City Hall landscaping project into his schedule, but he learned at the CPA meeting last night that it was deferred until the fall by the CPC. Sediment will be removed (1,200 c.y.), but it was deemed too large a project for the East Middlesex Mosquito Control group, so he is currently reviewing his alternatives in deciding whether to do the work in house or contract it out. He is currently getting estimates and has a consultant looking at the sediment sampling required for the end use and the Beneficial Use Determination. When asked the probability of getting the work done on time, he responded that it's 80%.

The Crystal Lake stormwater management NOI that was supposed to have been submitted for February has been deferred until March because of the early February meeting and unavailability of information. Maria Pologruto Rose will file for the March meeting.

2. Dolan Pond Conservation Area: Discussion with NNHS student re invasive vegetation project (7:45 p.m.*)

Report: Blake Rosenbaum is an AP Bio student at Newton North H.S. and wants to do a project at Dolan on invasive plants (Japanese knotweed).

Meeting: Blake did not appear; this item was rescheduled to February 15.

3. **15 Harwich Road:** Discussion with ISD & Law Dept. representatives re ongoing enforcement. (8:00 p.m.*)

Report: You requested that I contact ISD and the Law Dept. See response letter from Commissioner Lojek.

Meeting: The memo from ISD Commissioner Lojek was read into the record, as was counsel's memo regarding options, of which there are few. After discussion, members decided that the arrangement worked out between staff and the owner is acceptable and she was directed to write to him with that information, but to extend the planting deadline to May 1. If the planting has not occurred by that time, staff will initiate proceedings with the Law Dept. to take him to court.

4. **39 Beethoven Avenue:** Request for minor modification of previously approved site plan. (8:15 p.m.*)

Report: You previously approved this project and the owner did most of the shrub planting to the rear at the time he demolished the house – the shrubs have taken very well and are large and healthy. Since that time, the land has sat vacant. Now he's back with a plan that changes the shape of the house, so he needs a minor modification. He has also stated his intention to finish his bank planting (red maples), but wants to do it when he does the final landscaping at the end of construction (his Order requires it be done first). If he intends to go ahead with the house immediately, this is not the season to be planting anything, despite the warm weather.

Meeting: After a brief discussion, the minor modification was approved and the deadline for planting was extended as requested. Staff to notify with a letter.

5. **93 Andrew Street:** Public hearing on Notice of Intent for rear addition in the floodplain and Riverfront Area of South Meadow Brook. (8:30 p.m.*)

Report: Small addition in the rear in the Riverfront Area and floodplain. They can plant some shrubs in front of the wood picket fence down the sideline to provide some habitat inside the fence. Planting in front of the rear line would make it nearly impossible to mow the lawn back there, so the sideline planting or filling in the rear corner with shrubs would be better.

Meeting: Norman Kerlop appeared on behalf of the owner and described the work. Engineering suggested that a silt fence be added outside the work area. Staff suggested that shrubs could be planted in the rear corner or along the sideline of the project to extend the wildlife values in the area and the owner indicated that he would do both. A planting plan should be presented in the spring. The standard Order was approved.

6. **3 Fuller Avenue:** Public hearing on Notice of Intent for demo of existing dwelling and construction of new dwelling adjacent to Cranberry Brook. (8:30 p.m.*)

Report: They want to demo the existing house and construct a new one, do some filling, etc., all within the Buffer Zone to Bank and BVW. The plans are difficult because they have only proposed info; the existing conditions which you usually find in gray under the proposed condition are not presented. In addition, the stormwater was calculated on the Cornell method and not 7" as required by DEP and DPW regulations; the local floodplain and wetland at El. 29 was not taken into account and El. 29 is not shown in the area that has

been improved; the paper street has not been shown on the plan in relation to the proposed work and I need to check with the Law Dept. to find out their rights in the street; the physical alteration of the yard has gone into the paper street and also appears to have gone into the property on the other side (Calvary Cemetery in Waltham), but the plan is not clear in that regard; the BVW delineation was done on vegetation alone rather than including soils and in this particular location, soils review should have been done; the amount of sedges in the vegetable garden suggests that the garden area is a BVW and the lawn would probably come up hydric soils as well; the garden may not actually be on their property – more survey is needed; the above-ground pool was not shown on the plan and its status is not clear; there has been wholesale clearing along the stream and the new planting is not native material and appears to be on someone else's property. There are a lot of questions with this plan and I have conveyed them to the wetlands consultant who has promised to relay them to the engineer. Engineering also has questions.

Meeting: Wetland consultant Mary Trudeau represented the owner and went over the issues. The owner is in Land Court to try to get the paper street on the sideline officially abandoned and given to him. If he is not successful, he may have to go to the ZBA to get relief from setbacks as the paper street requires a front setback that will not allow him to build the house he wishes to build. The owner is also trying to purchase land owned by the Archdiocese and which he has improved over time with a lawn, bushes and a vegetable garden. She also discussed the fill, mulching, bank clearing and other violations. Members agreed to continue the matter to March 22, 2007, to allow time to resolve some of these issues. At that time Ms. Trudeau will bring in photos showing the nature of the violation and a soils investigation in the lawn. No enforcement action should be taken at this time.

7. 60 Oldham Road: Continuation of Public Hearing on Notice of Intent for replacement of failed retaining wall adj. Cheesecake Brook. (8:45 p.m.*)

Report: The owner satisfied you re this Order; however, no DEP number was received. As you requested, staff sent DEP the info needed to get a number and it has not been issued as of this writing because of the lack of a plan.

Meeting: Staff will provide a sketch. Please continue to Feb. 15 for final action.

8. 0 Carlisle Street: Discussion re trespass and erosion controls (9:00 p.m.)

Report: You received email correspondence regarding this issue.

Meeting: The owner, Rebecca Murphy, her son, Peter Murphy, and developer Steve Vona appeared to discuss the ongoing work. The Murphys indicated that they have owned the property for over 60 years and want to develop it in accordance with the wishes of the late Mr. Murphy. They indicated that they will do all the permitting the City requires.

Vona indicated that he is currently testing rock prior to the design of the stormwater management system. He indicated that he has the right to test by removing rock and has worked it out with Commissioner Lojek. (*Lojek indicated to staff prior to the meeting that he had given permission for minor work and rescinded the permission when he saw that the work exceeded his approvals.*) Vona indicated that he had obtained Marc Welch's permission to remove trees on the property. (*Staff contacted Welch who*

said that Vona marked trees he intended to remove and they were all under 8"; he did not return to the site after that review.) Vona maintains that nothing has been done on ConCom property. Alan Green indicated that a lot of rock has been removed. In response to a question about the necessity of smashing rock when simple borings could be done, Vona said he could do borings, but too many (over 200 borings) would be needed to do the kind of testing required. He indicated that he knows where the property line is located and he is approx. 12 ft. inside the property line. Staff noted that no property line is shown on the ground or on the rock. Rachel Freed said that it is incumbent on the owner to show the property line and Vona agreed to mark the property line by next week. He said he is one week away from applying for permits.

Attorney Michael Peirce appeared on behalf of several neighbors and handed out photographs of the current state of the land, saying that Commissioner Lojek did not envision wholesale removal of rock. He sees potential liability issues for the ConCom because the pathway into the conservation area has been impacted negatively with rock and brush. He believes ConCom participation will be critical later when the Special Permit application is made for a 3 ft. grade change because a lot of the rock will have to be removed to develop the lot. He urged that any trespass be purged immediately.

Neighbor Lloyd Sanders indicated that the access to the conservation area was blocked off by tape and equipment and the neighbors would like the tape, brush and equipment removed. Neighbor Robert Haas complained that the work had gone on without permits.

Staff noted that she had had a discussion with Vona regarding taping the ConCom's land without permission and not showing a property line on the ground so that it could be checked. She was also concerned about existing stormwater problems that may be able to be resolved with a good design on his part. Vona had volunteered to clean up some material that was dumped several years ago on ConCom land. He also agreed to present his plans and seek the ConCom's permission to do any work or anything on their land. That would include proper signage during any rock removal operation so that the public can safely traverse the public open space.

All Commissioners expressed concern regarding any loss of the rock on their side of the property line and indicated they were not happy not to have been notified in advance since they are direct abutters and half the rock outcrop belongs to the City. Chairman Wallach requested that Vona remove the tape and anything that is on City property by this Saturday (1/27/07) and Vona agreed; staff to check on Monday 1/29/07.

9. Announcements & General Business:

Dog Park Task Force: Discussion of proposed ordinance and report

Rachel Freed said her complaint with the ordinance is that there is no evaluative procedure and process for complaints. There is no specific entity to receive a complaint, keep track of where the problem exists and do something about it. She suggested a tip line or email where people could anonymously express their concerns regarding problems. She would like to see an annual report with details about the numbers of complaints, problem areas, solutions, etc. – information gathering for later judgement on how the program is working.

Members felt that a City-related entity could do it, or it could be done by the dog organizers with some reporting requirement to a City entity. The penalties are expressed as

being in section 3-26(b), but without an explanation, that reference is not helpful. Members would like to see a permit and fee program used to bear the costs of the program.

Staff requested that her comments be included in the final document. Freed volunteered to write something up regarding her concerns. Members also suggested that the TAB run a special section on the Dog Park logbook as they do for crime and fires to promote public awareness. This item was scheduled for the 2/15/07 meeting for discussion and vote on final comments to the Task Force.

750 Saw Mill Brook Parkway – Request for minor modification of Condition regarding work dates – sent by email.

The tower project must be stopped as of February 15 because of anticipated blue spotted salamander activity. The applicant wanted to be able to work until March 15 because they were delayed by late fall rains. Staff sent the proposal to Jon Regosion of Natural Heritage and he responded that with increased review, they probably can work until March 1, but not later. ConCom consultant Epsilon Associates agreed to review the weather and the site really well between February 15 and March 1 and stop the work if there is early activity. Staff to send a letter re approval of the modification requested, but only until March 1.

Pending Enforcements:

159 Wells Ave – DHL cleaned up the spill and said they would do better at housekeeping. I visited the site on 1/12/07 and found a contractor cleaning the parking lot and surrounding woods. Apparently he has been hired to do a full cleanup and then reappear for a quick cleanup weekly after that. It looks much better and I have written them a follow-up and thank you.

Certificates of Compliance:

1165 Chestnut Street

Report: They are requesting a Final C of C. The work has been completed on the building-related items, but their detention basin was not stable when I last looked. Upon a further inspection today, I found it still lacking vegetation in a number of places, plus there's trash and building materials around the site, so a general clean-up is needed.

In addition, they were supposed to do some planting in exchange for tree removal within the forest at the edge of the Charles. They did not do the tree removal so believe they do not have to do the planting and have requested the Final C of C without it. Please see their letter of explanation and decide whether you agree.

Also, they were supposed to do a pathway easement to allow us in future to construct a pathway to link up with public lands on either side, but that pathway easement has not been finalized at this time.

As a result of the foregoing, I suggest that you consider holding off on the C of C at this time.

Meeting: Jason Rosenberg and Joe Freeman, attorney and consultant for the applicant, appeared to present their request. The pathway easement document has been signed by all but one of the parties. The trash has been picked up. The bare soil at the detention basin will be covered with hay and re-seeded in the spring. Members discussed the mitigation planting area and agreed that it was mitigation for the tree cutting and that since no tree

cutting was done, the mitigation planting area need not be planted. Following lengthy discussion, members decided not to issue the Certificate of Compliance, but instead to have staff write a letter stating that all of the work is done and that a Certificate of Compliance will be issued when the grass has been established. The applicant should make such a request in May or June when the grass is full and the basin area is stable. The letter should also indicate that a note will be written in the Certificate of Compliance that the 3 conditions on the tree cutting and mitigation planting did not go into effect and the applicant will have to file again if they need to do any tree cutting in the future.

7 Bernard Street – The new dock was not in place upon inspection as it has been stored for the winter. The posts for the dock are in place and the bank looks stable, but the posts are not shown on the as-built. The low goose fence was on the 'proposed' plans that came in with the amendment, but not labelled or discussed in the text and I missed it entirely – it's also on the riverfront of the house next door – could be a problem for passage of wildlife. The clearing done on the bank is excessive, I believe. Please go and take a look.

At the December meeting, you deferred this item so you could make site visits on your own and take it up at the January meeting.

Meeting: Members declined to issue the Certificate of Compliance because they feel there has been too much bank clearing. They want the owner to stop maintaining the bank and allow the natural vegetation to grow back. They would like photos of the fully vegetated bank in June and will reconsider the Certificate of Compliance at that time. Staff to write a letter.

December 21, 2006, Meeting Minutes for approval – approved.

Agenda Timing: Due to problems with cancelled appearances and the resulting dead air time, staff was asked not to schedule times for subsequent meetings.

Potential Crosswalk at Helen Heyn Riverway: This issue came up when the Farm Commission members were talking about the dangers of trying to visit the farm at rush hour with parking on both sides of Winchester Street. It's difficult to enter the Helen Heyn Riverway because you park your car at Nahanton Park and then have to cross Nahanton Street to get to the entrance. Judy Hepburn, your delegate to the Farm Commission, suggested that visitors to both the farm and the Riverway could use some help. I did some checking and the Traffic Council does not like mid-block crosswalks as they feel it's too dangerous – drivers don't expect them and people feel safe, so do not pay as much attention as they would if there were no signs and they have no expectations of drivers. However, the crosswalks are under the purview of Commissioner Rooney and you may request one if you wish. The Farm Commission will take up this item at their February 1 meeting.

Meeting: Following discussion members voted to make an application for a crosswalk.

The following items were not discussed due to lack of time.

PENDING ISSUES – and Doug's idea of preparing a list for research by members.

My list would include:

Pressure treated wood – uses in soil, wet areas, water

Swimming pools – draining water into catch basins which discharge into wetlands, waterways, waterbodies

Email exchanges – As Ira Wallach requested I wrote to the Law Dept. for clarification. They have requested more info and I still haven't had time to get it together. Ouida Young did say that this issue is getting a lot of review lately and to be very careful.

FYI –

Volunteers at Norumbega have chipped half the pathway – these were young men from Governor's Academy who need some Community Service time, so they volunteered. It looks great.

I had our landscaper pull away bittersweet vines from a large number of trees at Norumbega plus trim up well and the area looks wonderful. Unfortunately, it just points up other areas there that need attention. I have found a group of neighbors who are willing to do some volunteer clipping and vine pulling this winter and have high hopes of doing some of the work at no cost.

I have invested heavily in Norumbega this year as there were large numbers of dead trees and limbs to be removed for safety reasons. The neighborhood volunteers do a lot of work for me and also appear to be doing a fairly decent job of policing each other re their dogs. My last visit produced two friendly off-leash dogs, but fortunately they were under voice control of the owners and left me alone.

Houghton Garden perimeter fencing is moving forward to complete the black steel picket fence. Marion Pressley worked out the new specs for us and the bid package is in Purchasing to go out to bid and find a contractor. I'm expecting the work to be completed by May.

The MWRA work is ongoing through Baldpate Meadow and they installed a stream crossing in the area where I had issues with poor erosion controls. The erosion has been stopped (800 sandbags, filter fabric, hay bales, lots of fill) and the stream is clean. They have the approval to move forward on the project.

Flowed Meadow signage has been approved by DCR and I will be working toward getting it printed up. DCR will place it for us.

The remaining signage needs to be tallied up and ordered. I have waited because of the press of work, but also needing to find the proper fasteners so the signs can be ordered with the proper size holes in the proper places as some will be mounted on chain link fences and some will be on posts and we need to make sure the fasteners are vandalproof. I expect to finish this up soon.

The Hammond Pond project will be completed by June 1. Work is now ongoing for contracting out the construction of the sand filters, contracting out the easement survey and working on the plants to be ordered for the bio-retention areas.

Flowed Meadow 3 is still up in the air as we need gas probes and a methane report to determine whether or not this area is suitable for helical pier supports for the proposed boardwalks. The methane investigation contract proposal has yet to be received.

Frank Nichols is the new Permits Engineer down in Engineering and he will be doing the reviews for you from now on. Frank is skilled and enthusiastic and he will do a great job.

I have proposed that I leave my regular duties as of May 1, 2007, and be replaced at that time. Also that I will continue in May on a part-time basis to help the new person, but mainly to work on the Hammond Pond project which must finish —reports and all – by May 30th. That way there will be continuity in both job and special project and I will be able to go back and forth to Maine in May to get the yet-to-be-purchased house ready for my move in June.

Lesya Struz of the Island Neighborhood in Waltham (near Flowed Meadow) wants to shadow me to gain some experience for her job search in return for working on our Conservation Restriction project. She is well organized and precise, with experience in deed research and GIS mapping, so she will be a great asset to the project. I expect her to start at the end of the month.